

ORIGINAL**FILED**

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

OCT 15 2014

BID PROTEST

U.S. COURT OF
FEDERAL CLAIMS

SIERRA NEVADA CORPORATION,)
)
Plaintiff,)
)
v.)
)
THE UNITED STATES,)
)
Defendant.)
)

Case No. _____

Judge  14 - 994C

**PLAINTIFF'S APPLICATION FOR A TEMPORARY RESTRAINING
ORDER TO PREVENT UNLAWFUL OVERRIDE OF CICA STAY**

Pursuant to RCFC 65, Plaintiff Sierra Nevada Corporation (“SNC”), through the undersigned counsel, respectfully moves the Court for a temporary restraining order enjoining Defendant, the United States, its officers, employees, and agents from (i) further implementing its override of the automatic stay of performance imposed by the Competition in Contracting Act on Contract Nos. NNK14MA74C and NNK14MA75C, awarded by the National Aeronautics and Space Administration (“NASA” or “Agency”), and (ii) allowing performance of said contracts to proceed.

NASA awarded the contracts on or about September 16, 2014 to The Boeing Company (“Boeing”) and Space Exploration Technologies (“SpaceX”).

Plaintiff SNC respectfully requests that this temporary restraining order remain in force until the Court enters a preliminary injunction or a final judgment on the merits of this

case, whichever occurs first. The grounds for this relief are set forth in the accompanying memorandum and the exhibits thereto.

Contemporaneously with this filing, the undersigned counsel for SNC has arranged for the immediate delivery of SNC's Complaint, this application, a motion for a preliminary injunction, SNC's memorandum in support of the application and motion, and all supporting documents to counsel for the United States, the Department of Justice Commercial Litigation Branch; NASA, Karen M. Reilley; SpaceX, Rick Vacura; and Boeing, Scott McCaleb. The undersigned has also provided notice to NASA Contracting Officer Rogelio Curiel and GAO Bid Protest Unit Senior Attorney Eric Ransom.

Dated: October 15, 2014

Respectfully submitted,

By:


Neil H. O'Donnell
Dennis J. Callahan

ROGERS JOSEPH O'DONNELL, P.C.
750 Ninth Street NW, Suite 710
Washington, DC 20001
Tel: (202) 777-8950
Fax: (202) 347-8429

Counsel for Plaintiff Sierra Nevada
Corporation

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)	
Defendant.)	
)	

TEMPORARY RESTRAINING ORDER

Upon consideration of Sierra Nevada Corporation's Application for a Temporary Restraining Order, the Complaint, the supporting memorandum, exhibits and declarations, and after notice to all parties and a hearing, it is this ____th day of October 2014,

ORDERED, that Defendant, its officers, employees, agents and all other persons in active concert or participation with them are enjoined from (i) further implementing Defendant's override of the automatic stay of performance imposed by the Competition in Contracting Act on Contract Nos. NNK14MA74D and NNK14MA75C that is the subject of Protest *Sierra Nevada Corporation*, B-410485 before the U.S. Government Accountability Office, and (ii) allowing performance of said contracts to proceed

Judge, U.S. Court of Federal Claims

Entered this ____ day of October, 2014

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BID PROTEST

SIERRA NEVADA CORPORATION,)	
)	
Plaintiff,)	Case No. _____
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v.)	Judge _____
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THE UNITED STATES,)	
)	
Defendant.)	
)	

CERTIFICATE OF SERVICE

I hereby certify that I have caused to be delivered, by hand, facsimile, or electronic means, on this 15th day of October, 2014, copies of (1) the Complaint, (2) Plaintiff's Application for a Temporary Restraining Order, (3) Proposed Temporary Restraining Order, (4) Motion for a Preliminary Judgment and Injunction Relief, (5) Proposed Order Granting Preliminary Injunction, (6) Proposed Order Granting Declaratory Judgment (7) Memorandum in Support of Plaintiff's Application for a Temporary Restraining Order and Motion for a Preliminary Injunction, (8) Plaintiff's Corporate Disclosure Statement, and (9) Plaintiff's Motion For Leave To File Documents Under Seal and Motion For A Protective Order on the following counsel:

- A. For the United States, the Dept. of Justice Commercial Litigation Branch;
- B. For the contracting agency, NASA, Karen M. Reilley;

- C. For awardee SpaceX, Rick Vacura; and
- D. For awardee Boeing, Scott McCaleb.

Dated: October 15, 2014

Respectfully submitted,

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Counsels for Plaintiff Sierra Nevada
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